

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1529

IN THE MATTER OF:

Served April 1, 1976

Application of BANNISTER ENTER-)
PRISES, INC., for a Certificate of)
Public Convenience and Necessity to)
Perform Charter Operations Pursuant)
to Contract)

Application No. 905

Docket No. 309

BY THE COMMISSION:

By Application No. 905, dated January 19, 1976, Bannister Enterprises, Inc. (BEI) seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to perform a charter operation pursuant to contract. BEI seeks authority to transport persons, as designated by agencies of the District of Columbia Government (District of Columbia), over irregular routes, between points within the Metropolitan District.

By Order No. 1498, served February 11, 1976, the application was assigned for public hearing. No protests were filed to BEI's application. The findings to be made by the Commission, after hearing, with respect to applications for certificates of public convenience and necessity are set forth in Title II, Article XII, Section 4(b) of the Compact. The Commission must make two separate findings. First, the applicant must be "fit, willing and able" to perform the proposed transportation properly and to conform to the provisions of the Compact and the rules, regulations and requirements of the Commission thereunder. Second, the proposed transportation "must be or will be required" by the public convenience and necessity.

BEI previously was granted temporary authority to perform the proposed service by Commission Order No. 1441, served July 14, 1975. That temporary authority terminated on January 10, 1976, and by Order No. 1498 BEI's request for continuation of the temporary authority was rejected. An affiliated company, Bannister Car Rental and Chauffeur Service, Inc., has been granted temporary authority on two separate occasions to transport passengers from specified points located within the Metropolitan District to the Wolf Trap Farm Park for the Performing Arts, Filene Center, a facility of the United States Government, at or near Vienna, Virginia, and return. See Order No. 1334, served June 19, 1974, and Order No. 1427, served May 19,

1975. BEI also was recently granted temporary authority to transport passengers, together with their baggage, over irregular routes, between a point or points at or near the Colonial Parking Garage on the southeast corner of the intersection of North Capitol and E Streets, N. W., in the District of Columbia, and a point or points at or near the railroad station now known as the Washington Union Station, located in the District of Columbia, serving no intermediate points, pursuant to contract with Amtrak dated December 12, 1975. See Order No. 1493, served February 3, 1976.

BEI is a District of Columbia corporation and was incorporated in 1969. Its primary transportation service has been protocol chauffeuring, car leasing and car rental. That operation has involved the use of independent contractors who perform the chauffeuring service. BEI also has provided transportation for the District of Columbia public schools.

BEI's contract with the District of Columbia is for a one-year period which commenced June 1, 1975, and ends May 31, 1976. There is no renewal option set forth in the contract. The contract contains an estimate of the service to be rendered during the period and the revenue to be realized. The service would consist of transporting groups involved in community projects, educational enrichment programs, training seminars and research programs. The District of Columbia agencies designate the groups to be transported. BEI collects no fares from the passengers. Rather, it is paid pursuant to the provisions of the contract. BEI currently has ten vehicles for use in the proposed service.

BEI stated that the service rendered pursuant to temporary authority involved transportation of groups to points in all portions of the Metropolitan District. The service primarily involved transportation in the District of Columbia and Maryland. No sightseeing service was performed. According to BEI, the temporary authority operations generated approximately \$38,000 in revenue.

Several financial statements portraying BEI's position on December 31, 1975, were presented. A balance sheet statement indicates \$101,004 total assets, including \$89,500 appraised value of buses, limousines, and automobiles. Total liabilities are shown as \$32,775. The company's net worth is shown as \$68,229. This valuation is based upon the appraised value of operating assets.

A statement of income for the 1975 calendar year also was presented. That statement indicates service revenues \$113,819, cost of services \$86,296, and general expenses \$15,269. The operations generated a \$12,254 net income. This represents a 10.8 percent return on revenues before income taxes.

The Commission believes that the record supports a finding that BEI is fit, willing and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the rules, regulations and requirements of the Commission thereunder. The Commission further believes that the record supports a finding that the public convenience and necessity requires the transportation of groups, as designated by agencies of the District of Columbia, between points within the Metropolitan District. The Commission finds that approval of BEI's application is required by the public convenience and necessity. The authority to be granted shall be limited to charter operations pursuant to this specific contract between BEI and the District of Columbia.

The Compact requires each carrier to "file with the Commission, and keep open to public inspection, tariffs showing (1) all fares it charges for transportation subject to this Act, . . . , and (2) to the extent required by regulations of the Commission, the regulations and practices of such carrier affecting such fares." See Compact, Title II, Article XII, Section 5(a). The Commission shall direct BEI to file such a tariff.

As previously indicated, BEI would be paid for the service pursuant to the terms of the contract. Although the rate has been agreed to by the person rendering the service and the person using the service, the Commission "may suspend any fare, regulation, or practice shown in a tariff . . . at any time before such fare, regulation or practice would otherwise take effect." See Compact, Title II, Article XII, Section 6(a)(1). The Commission has given consideration to, among other things, the financial condition of BEI, its revenue requirements, and whether BEI is being operated economically and efficiently. The Commission concludes that the rates set forth in the record are just, reasonable and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District.

The Commission has considered the other matters presented by the record but finds they do not warrant action contrary to that which is now directed.

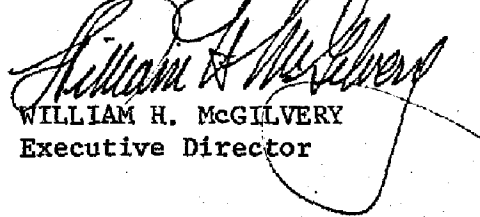
THEREFORE, IT IS ORDERED:

1. That Application No. 905 of Bannister Enterprises, Inc., be, and it is hereby, granted.

2. That Bannister Enterprises, Inc., be, and it is hereby, issued Certificate of Public Convenience and Necessity No. 32, as attached hereto and made a part hereof.

3. That Bannister Enterprises, Inc., be, and it is hereby, directed to file WMATC Tariff No. 1 in accordance with the authority granted herein, such tariff to be effective upon acceptance by the Executive Director.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in dark ink, appearing to read "William H. McGilvery", is written over the typed name and title. The signature is fluid and cursive, with a large loop at the end.

WILLIAM H. MCGILVERY
Executive Director

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NO. 32

BANNISTER ENTERPRISES, INC.

WASHINGTON, D. C.

By Order No. 1529 of the Washington Metropolitan Area Transit Commission issued April 1, 1976;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 1529;

THEREFORE, IT IS ORDERED, that the said carrier be, and it is hereby, granted this certificate of public convenience and necessity as evidence of the authority of the holder to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions and limitations as are now or may hereafter be attached to the exercise of the privilege herein granted to the said carrier.

IT IS FURTHER ORDERED that the transportation authorized by this certificate of public convenience and necessity shall be limited to the performance of service pursuant to agreement between Bannister Enterprises, Inc., and the District of Columbia Government, provided, however, that written notice must be filed by the carrier with the Commission within five (5) days of any cancellation or termination of the aforementioned agreement, and further provided that any change in or amendment to the aforementioned agreement shall be filed with the Commission for approval at least fifteen (15) days prior to the proposed effective date of such change or amendment, and further provided that any change or amendment to the aforementioned agreement which would involve new authority shall be subject to the provisions of the Washington Metropolitan Area Transit Regulation Compact and the Rules and Regulations of the Commission.

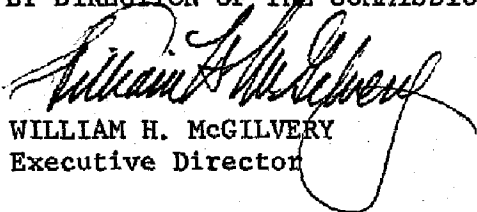
IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTE:

CHARTER OPERATIONS PURSUANT TO CONTRACT to perform transportation of persons designated by agencies of the District of Columbia Government between points within the Metropolitan District.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous and adequate service in pursuance of the authority granted herein, and that failure so to do shall constitute sufficient grounds for suspension, change or revocation of this certificate.

BY DIRECTION OF THE COMMISSION:


WILLIAM H. MCGILVERY
Executive Director